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## **ASSESSMENT OF GULF WAR VETERANS' HEALTH CARE SERVICES AND COMPENSATION BENEFITS AT THE DEPARTMENT OF VETERANS AFFAIRS**

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### **INTRODUCTION**

The relationship between the Department of Defense and the Department of Veterans Affairs is as important today as it has ever been. With the winding down of the Gulf War in 1991 and the concurrent downsizing of U.S. forces world-wide, the number of men and women who are veterans eligible for VA care is significant. In taking a close look at the Department of Veterans Affairs and its role in ensuring the health and well-being of Gulf War veterans, the staff of the Special Investigation Unit traveled to numerous VA facilities across the country. (The VA facilities visited by the SIU can be found at Appendix J.) This effort included examining the VA's capabilities and plans for the care of Gulf War veterans, and ways in which the VA and DOD can work together to ensure that Gulf War veterans get the care and services they deserve. In conducting this investigation, the SIU examined the nature and extent of the health care services currently provided by VA to Gulf War veterans. The SIU also studied how VA's claims processing centers across the country (known as regional offices) review Gulf War veterans' compensation benefits claims and how VA ensures that those decisions are timely and accurate.

However, as this chapter describes, too many Gulf War veterans are dissatisfied with the health care they are receiving from VA. And, too few of those veterans currently are receiving timely responses to their claims or accurate determinations of whether a grant of compensation is warranted. The SIU found that although the VA purports to operate as a single entity on behalf of veterans, in practice it is a loosely linked group of bureaucracies that operate largely in isolation from one another. This organizational structure breeds communication lapses and bureaucratic hurdles that prevent the VA from providing effective and efficient service to Gulf War veterans.

The purpose of this chapter is to identify opportunities for improvement. In that vein, the SIU identified three key areas of concern that are common to the disability compensation and benefits programs administered by the Veterans' Benefits Administration and the health care services

provided by the Veterans Health Administration. This chapter's discussion of the SIU's investigation into VA's activities on behalf of Gulf War veterans should be read with the three issues set out below in mind.

First, there is a clear absence of a common philosophy and a practical approach to VA procedures, programs, processes, and policies related to Gulf War veterans. On the health care side, for example, there is no clear guidance for VA's medical staff for conducting standardized and thorough Persian Gulf Registry exams, while on the benefits side there appears to be a lack of understanding as to the proper standards to apply in processing Gulf War-related compensation benefits claims.

A second major problem common to VHA and VBA is the chronic failure within VA to adequately collect, analyze, and share information about Gulf War veterans who seek assistance from the VA. Without such basic cooperation and sharing of data, there can be no reliable evaluation of how the VA's Gulf War programs and policies are working. Without reliable evaluation of the programs, it is impossible for VA leadership to make necessary adjustments or respond to changing conditions. An inability to reliably evaluate the VA's legislatively mandated Gulf War programs means that Congress's oversight responsibilities are seriously impaired. Most importantly, absent reliable data and program evaluation it is impossible to ensure that individual Gulf War veterans are receiving appropriate health care treatment or that their compensation benefits claims are being processed in an accurate, consistent and timely manner.

Third, there is a pervasive lack of coordination at VA of the various services it has available for Gulf War veterans. This is not limited to programs for Gulf War veterans, for the VA already has identified coordination defects as an agency-wide problem affecting all veterans. However, the VA's solution to date largely has been to coin and repeat the slogan "One-VA." A VA that truly operates as a single entity should, of course, strive to speak with one voice. Unfortunately, this rhetoric all too often replaces effective action and insofar as Gulf War veterans are concerned, VA's mission remains unfocused. The result is internal agency conflicts, program insularity, and confusion and frustration on the part of the Gulf War veterans that the agency says are a priority for it to serve. Each of the problems identified here can be remedied. In some cases it will require a substantial commitment of VA's part to do so; in other cases progress is already being made. However, these weaknesses in VA's Gulf War veteran programs cannot, and should not, be ignored, for to do so would be to renege on this nation's commitment to help ill Gulf War veterans to the greatest extent possible.

## **OVERVIEW OF VA'S RESPONSIBILITIES TOWARD GULF WAR VETERANS**

**T**he government's responsibility to take care of individuals who serve in the defense of the United States and are injured as a result of that service can be traced to laws enacted by the Plymouth

Colony.<sup>97</sup> Caring for the war-wounded is as deeply ingrained in our nation's traditions as are voting and community service. Since the beginnings of our country, some measure of compensation from the government for disabled veterans has been available.

Qualifying for VA health care services or disability compensation benefits is not automatic. It requires that the veteran provide proof to VA that an injury or health condition was triggered by something that happened during the veteran's military service. Yet, as this investigation discovered, determinations of eligibility for health care services and for disability compensation benefits do not operate in a parallel fashion. This is particularly true for Gulf War veterans with unexplained illnesses or, as VA refers to them, "undiagnosed illnesses." Where compensation claims from Gulf War veterans who suffer from undiagnosed illnesses are involved, the adjudication of those claims often is a long, laborious, and complicated process. This is partly due to the unique issues raised by the possible connection between Gulf War service and the current health problems of some of those veterans for which a cause has not been determined. Also, as described in this chapter, the problems that exist in the delivery of health care services and compensation benefits are also a consequence of organizational priorities that were established at VA without providing personnel with adequate training, information and time to accomplish them. The situation is confounded by the fact that there is little coordination between VA's health and benefits components on Gulf War veterans' issues.

In the past few years, those in leadership positions at the VA have often described the department's overall performance goals in terms of a "One-VA" model—meaning that all parts of the agency, and particularly the benefits and health care areas, will work in unison for the maximum benefit of the department's customer, the veteran. VA leaders cite many examples of the success of the "One-VA" approach, including initiatives involving Gulf War veterans, and in recent years some positive changes have occurred. For example, teamwork between VA health care and compensation experts resulted in regulations to provide Gulf War veterans with undiagnosed illnesses compensation payments. However, in spite of this success story, the SIU's investigation found little evidence that VA's claims of a streamlined and more efficient approach to fulfilling its mission are reflected in VA's actual delivery of timely health care services and disability compensation to veterans, particularly where Gulf War veterans are concerned.

Although senior-level officials at VA, as at any organization, are responsible for implementing the policies they establish or articulate, the SIU found that a lack of internal oversight of VA programs is common and a lack of accountability the status quo. As the discussion below demonstrates, there unfortunately is little evidence that VA leaders are moving forward to implement fundamental changes in the department's administrative, organizational, or service delivery structures that truly embody a unified "One-VA" approach to the delivery of services to Gulf War veterans seeking care and compensation.

## **LACK OF COOPERATION BETWEEN VA'S HEALTH AND BENEFITS ADMINISTRATIONS HINDERS IMPLEMENTATION OF THE "ONE-VA" APPROACH**

This investigation found that there are serious impediments to cooperation within VA, especially between the health and benefits administrations. This situation exists not because VA lacks the expertise necessary to fully understand and address the undiagnosed illnesses suffered by Gulf War veterans. It exists because the expertise and resources are fragmented. The Veterans Health Administration (VHA) has consistently failed to follow and track the progress of treatment of Gulf War veterans, even those who are service-connected for undiagnosed illness and who are categorized among VA's priority customers. Similarly, as correspondence from officials at the Veterans Benefits Administration (VBA) to the Committee has acknowledged, VBA has failed to maintain or provide records accounting for its use of resources to adjudicate claims from Gulf war veterans.<sup>98</sup>

In VBA, policy guidance on Gulf War claims processing is provided to decision makers at VBA regional offices around the country from VA headquarters (known within VA as the "Central Office") by a team of policy and claims management experts called the Rapid Response Team. Rapid Response Team members respond to questions from regional office decision-making personnel concerning the adequacy of evidence presented in support of a compensation claim, including the physical examinations of veterans that are performed by VHA doctors on behalf of VBA. Yet, even though it is VHA doctors who have expertise regarding the conduct of these physical examinations, VBA's Rapid Response Team as of the writing of this report does not include among its personnel either a VHA Central Office Gulf War expert or any other VHA health care policy expert. Perhaps this is merely an oversight on VBA's part. Nevertheless, the SIU's investigators believe that this failure by VBA to take advantage of VHA's expertise in this way is a lost opportunity to help unify VA's approach to how Gulf War veterans' compensation claims are processed.

The lack of cooperative policy making between VBA and VHA was recently addressed in part by the joint issuance in February of 1998 of fully informed, basic guidance to VA's regional offices and medical facilities in the field. This guidance describes how to conduct physical examinations in support of Gulf War veterans' compensation claims for undiagnosed illnesses. It also addresses issues of fundamental concern such as to what extent a claimed condition should be investigated before being judged to be "undiagnosed."<sup>99</sup> This example illustrates the extent to which the "One -VA" concept easily could be realized in the day-to-day operations of VA where Gulf War veterans are concerned. That Gulf War veterans should be able to deal with "One-VA" is not only good policy, but it is necessary if VA is to provide adequate service to Gulf War veterans.

## **VA DISABILITY COMPENSATION AND THE GULF WAR VETERAN**

In order to fully understand the problems Gulf War veterans are facing in obtaining timely compensation from VA, it is necessary to understand how the compensation claims system at VA is intended to work.

*Service-connection for Disabilities and “Undiagnosed Illnesses”*

The term “service connection” is used at VA, in the context of adjudicating compensation claims from any veteran (including Gulf War veterans), to refer to injuries incurred or diseases contracted during military duty or, if the injury or disease existed prior to service, for conditions aggravated by military service. “Disability compensation” is the monthly payment made by VA to a veteran who has been found, after the veteran has filed a claim and it has been resolved in the veteran’s favor, to be disabled as the result of military service if that disability is found to be “ten percent” or more. At VA, the percentage of disability is derived from a regulatory “Schedule for Rating Disabilities.”<sup>100</sup> This schedule contains ten grades, or percentages, of disability upon which compensation is paid. When a disability is determined to be service-connected, the percentage of disability assigned for the condition is based upon the average impairment of earning capacity resulting from the same injury in civil occupations.<sup>101</sup>

Under existing law, there are two ways in which veterans may establish service connection for a disability. These are called “direct service connection” and “presumptive service connection.” “Direct service connection” means that the facts in a veteran’s claims record establish that an injury or disease resulting in a chronic disability, which VA defines as one that has existed for at least six months, was incurred coincident with military service. Direct service connection can also be shown even though a physical condition existed prior to military service if the facts in the veteran’s claims record demonstrate that the condition was aggravated by military service.<sup>102</sup> In cases of “presumptive service connection,” an adverse physical condition may be presumed by law to be related to military service, even if it is not shown to have occurred during or was aggravated by that service, if the chronic disability is manifested to a degree of ten percent or more within a certain time limit (usually within one year after the veteran was released from military duty). Presumptive service connection has the advantage of simplicity for the veteran and VA because it does not require documentary proof that the disability occurred in military service.<sup>103</sup>

A precondition to successfully applying either of these two methods for establishing service connection is a diagnosis attached to the condition that the veteran claims is related to military service and is one for which compensation should be paid. However, many Gulf War veterans suffer from ill-defined symptoms and from symptoms that elude classic diagnostic processes. Therefore, Gulf War veterans are at a disadvantage under the conventional measures of service connection that require a diagnosis.

In order to take into account the unique character of Gulf War veterans’ unexplained illnesses, statutory language was enacted in November 1994 providing that presumptive service connection may be granted to Gulf War veterans who are sick from illnesses that cannot be diagnosed.<sup>104</sup> Under this provision, service connection is to be granted when the Gulf War veteran suffers from a chronic disability resulting from one or more undiagnosed illnesses. The undiagnosed illness must have manifested itself during the veteran’s active duty in the Southwest Asia theater of operations during

the Gulf War, or to a degree of ten percent or more disabling from the date the individual left the Southwest Asia theater through December 31, 2001.<sup>105</sup>

*Processing of Gulf War Veterans' Compensation Claims*

The claims process begins with the veteran's completion of an application for disability benefits. When any veteran files a claim for compensation, that individual must diligently track the claim's status in order to get a timely and favorable result. According to VA regulations, the veteran is responsible for furnishing evidence supporting his or her claim. VA personnel in regional offices take the lead in the remainder of the process, sometimes assisted by representatives from veterans service organizations such as the American Legion, Disabled American Veterans, or Veterans of Foreign Wars. VA is responsible for identifying, gathering, and deciding whether sufficient proof has been assembled to result in a favorable determination that the Gulf War veteran's claimed health condition is service-connected. While VA is required to assist the veteran in developing the facts of the claim, the regulations also state that the requirement that the VA assist a veteran does not shift the ultimate responsibility to produce supporting evidence for the claim from the veteran to VA.<sup>106</sup>

VBA's regional offices are the hub of the adjudication process for any compensation claim, including those filed by Gulf War veterans. Regional office personnel who review the veteran's claims record identify and gather evidence to determine what issues should be considered in deciding a claim. They also evaluate all the available evidence to rule on the veteran's eligibility to receive disability compensation. VA compensation decision makers must examine all the evidence in a veteran's record to address conditions that are specifically claimed as service-connected.<sup>107</sup> However, these same decision makers are also responsible for identifying issues that are not specifically claimed by the veteran but that are "inferred" from the face of the record. Inferred issues in this context are signs or symptoms that are unrelated to a diagnosis but nevertheless are evident upon review of the veteran's record.<sup>108</sup> In other words, within each claim by a veteran there may be inferred issues that must be considered for service connection in the same manner that claimed issues must be considered. This is especially important for Gulf War veterans with undiagnosed illnesses, because VA's criteria for compensation for undiagnosed illnesses provides that service connection is payable to a Gulf War veteran who exhibits indications of a chronic disability manifested by one or more signs or symptoms such as fatigue, muscle pain, abnormal weight loss, or menstrual disorders.<sup>109</sup>

Thus, for any veteran to obtain a determination that he or she is entitled to compensation payments two threshold requirements must be met. First, a link must be established or presumed between the veteran's military service and the claimed or inferred condition. Second, the VA compensation decision-maker must find that the service-connected condition is at least ten percent disabling.

## **VA HEALTH CARE SERVICES AVAILABLE TO GULF WAR VETERANS**

Like other veterans, those who served in the Gulf War are eligible to receive health care services from VA upon a determination that their condition is service-connected. But, Gulf War veterans with undiagnosed illnesses had difficulty establishing their eligibility to compensation payments prior to enactment of the statutory provision, described above, that provides a means for presumptive service connection. In light of this, VA sought to ensure that Gulf War veterans and active military personnel with complaints of illnesses associated with Gulf War service also have ready access to the VA health care system.

Even before the ground war started in February of 1991, VA began planning for the possibility that American military personnel might be deployed to Southwest Asia. In November of 1990, VA took steps to establish a system to track veterans who might become ill due to their military service.<sup>110</sup> In 1992, VHA finally established the Persian Gulf Registry. The registry's purpose was to serve as a mechanism to assist VA in identifying possible diseases which may have resulted from military service in certain areas of Southwest Asia.

Because so many service members deployed to the Gulf War were National Guard and Reserve personnel, in 1993 Congress approved statutory authority for VA to expand its ability to provide health care coverage to include National Guard and Reserve personnel who served in the Gulf War. Under current law, they are otherwise ineligible to receive that health care.<sup>111</sup> This statutory authority dramatically changed the requirements for delivery of health care services to all Gulf War veterans. For example, Gulf War veterans, unlike other veterans, are not required to file or wait for decisions on their claims for compensation before being eligible to receive health care from VA. As discussed below, Gulf War veterans have the opportunity, unique within the VA structure, to receive free extensive and specialized physical examinations simply by virtue of service in the Gulf War and can also receive medical treatment for conditions VA physicians believe may be related to Gulf War service. This policy is commendable but, as described later in this report, it has not always resulted in delivery of health care to these veterans.

## **SPECIAL HEALTH CARE ELIGIBILITY FOR GULF WAR VETERANS**

A key part of the legislation passed in 1993 was that Congress also authorized VA to provide health care services to Gulf War veterans who, while serving on active duty in the Southwest Asia theater of operations during the Gulf War, may have been or were exposed to a toxic substance or environmental hazard.<sup>112</sup> The health care services VA is authorized to provide to Gulf War veterans in VA facilities include hospital, nursing home care, and outpatient care. This is true regardless of a determination that a condition is service-connected, the veteran's age, or the veteran's ability to pay for that care. This extension of full health care to Gulf War veterans is a key feature of the 1993 legislation because payment by veterans for VA health care services is usually required except in limited situations such as medical care provided for a service-connected disability.<sup>113</sup> Also, Gulf War

veterans are to be furnished medical care on an outpatient basis in a hospital or clinic ahead of most other nonservice-connected veterans. This priority in delivery of medical care to Gulf War veterans is similar to the priority service provided by law to former prisoners of war who receive medical care at VA facilities for nonservice-connected conditions.<sup>114</sup>

Although Congress created a means for Gulf War veterans to obtain certain health care services from VA that are not available to most other veterans, it also made clear in the 1993 legislation that the presumptions and priorities it created for Gulf War veterans applied solely to the provision of health care services and did not extend to other VA functions, such as compensation claims.<sup>115</sup> Thus, the fact that a Gulf War veteran is eligible for health care services from VA under this statute does not constitute a basis for determining service connection for purposes of an award of compensation payments.

## **VBA'S DECISIONS REGARDING COMPENSATION CLAIMS PROCESSING OF GULF WAR CLAIMS HAVE BEEN INCONSISTENT AND COUNTERPRODUCTIVE**

As public concern began growing over the possible health consequences to veterans from their Gulf War service, VBA management made several decisions to address their problems. However, as will be explained, these decisions were erratic, did not ultimately respond to the needs of Gulf War veterans, and resulted in lost opportunities to serve these veterans.

One very significant decision made in an effort to respond to Gulf War veterans was to consolidate adjudication of all Gulf War compensation claims based on environmental hazards in the Louisville, Kentucky regional office beginning in December 1992. VA has stated that consolidation of claims processing was done in order to allow decision makers in the Louisville office to develop an expertise in working with the unique issues that these claims raise, dedicate resources to what was believed would be more expeditious processing of the claims, and allow close monitoring of the claims to identify patterns and common health problems that may appear among Gulf War veterans.<sup>116</sup>

At the time VA designated the Louisville regional office as the focal point for adjudicating these unique claims, VA did not anticipate receiving many environmental hazard claims. Early information from DOD suggested that U.S. troops were not exposed to biological or chemical warfare agents and that DOD did not believe such agents were present in the theater of operations.<sup>117</sup> However, the number of claims that were submitted by Gulf War veterans to the Louisville regional office quickly grew to the point that the office could not in fact process them in a timely fashion. For example, by October 1994, the Louisville office was averaging 357 days to process an original (first-time) claim for compensation from Gulf War veterans. At the same time, the national average for



all regional offices processing original claims was 176 days and VBA's goal for processing original compensation claims was 106 days.<sup>118</sup>

The growing concern among Gulf War veterans about their possible exposure to an environmental hazard and a potential link between that and their ill health resulted in an increasing workload that out-paced the Louisville regional office's and VBA Central Office's ability to respond in a timely manner. Finally, in October of 1994, VBA's Central Office designated three more regional offices to handle Gulf War veteran claims. The three new Gulf War regional offices were in Philadelphia (covering the eastern United States), Nashville (the southern area), and Phoenix (the western region), with Louisville now handling only the central part of the country. Each of these offices was referred to as an area processing office for Gulf War environmental hazards and undiagnosed illnesses claims. VA took this action because it believed that expanding to four area processing offices would restore the desired level of prompt service to veterans, distribute the workload more evenly, and enhance timely processing of the claims.<sup>119</sup>

Concurrent with the increase in the number of area processing offices designated to handle the increasing number of Gulf War veterans' claims, in November of 1994 Congress passed legislation authorizing payment of compensation to Gulf War veterans suffering from chronic disabilities resulting from undiagnosed illnesses. VA published regulations to implement the statute in February 1995.<sup>120</sup> Prior to this legislation, 10,736 Gulf War veterans already had received a final decision on their claims without the benefit of this new standard of review. To avoid penalizing them because they happened to have filed claims before the law came into effect, in July 1996 their claims were reopened to determine if a different outcome would result under the new standard.<sup>121</sup> The four area processing offices thereupon undertook, in addition to review of new Gulf War veterans' claims, the readjudication of those thousands of completed claims. The readjudication was also intended to ensure that information about the claims had been properly entered into a specialized computer database system known internally at VA as the "Gulf War Tracker" which was developed to track Gulf War claims.<sup>122</sup> However, by early 1997 the Nashville area processing office's share of Gulf War claims alone was so great that VBA management enlisted the assistance of the Cleveland, Ohio, and Muskogee, Oklahoma, regional offices to help Nashville with these readjudications. (15,638 claims were pending at Nashville compared to 7,111 claims at Philadelphia, 8,347 at Phoenix, and 8,246 at Louisville).<sup>123</sup>

Readjudication of completed Gulf War claims was not limited to those that were decided without the benefit of the statutory provisions clarifying the standards to apply to undiagnosed illness claims. In March 1997, the President approved the request of the Secretary of Veterans Affairs to extend the presumptive period during which conditions on which Gulf War undiagnosed illness claims might be based from two years after the date of a Gulf War veteran's last active service in the Southwest Asia theater to December 31, 2001.<sup>124</sup> VA finalized regulations in April of 1997 to implement the extension of the presumptive period.<sup>125</sup> The result was that over 4,400 claims (some of which were part of the group of several thousand claims already subject to readjudication) that had been denied

because the claimed disabilities had appeared after the previous two-year presumptive period also required re-review to determine possible entitlement to benefits under the new presumptive period.

While these readjudication projects were underway, VBA management decided to reverse the centralization policy it had followed for nearly five years. The demands placed on the four area processing offices had overwhelmed their ability to process Gulf War veterans' claims in an efficient manner. Veterans and other interested parties such as Congress and veterans service organizations were also seeking increased Gulf War veteran access to the decision makers on their compensation claims.<sup>126</sup> On May 5, 1997, the VBA management informed all regional offices that they should no longer send Gulf War undiagnosed illness cases to the area processing offices and all cases that were awaiting action at the area processing offices would be returned by the area processing offices to the regional offices by June 1, 1997.<sup>127</sup> VBA Central Office personnel developed an implementation plan for this redistribution. Among other things, the plan attempted to respond to complaints from veterans and veterans service organizations about long processing delays. It also sought to address their objections that the reviews were being done at locations remote from where veterans lived, making it difficult for them to adequately follow up on their claim and provide new evidence if required. VBA's redistribution plan also was intended to minimize the impact on the regional offices from a new workload involving unique issues with which most compensation decision makers were unfamiliar as well as to maintain and eventually improve the level of service to Gulf War veterans.<sup>128</sup> At the time the decision to decentralize was made, there were approximately 9,700 Gulf War claims for which a decision had not been made.<sup>129</sup> These pending claims were added to the regional offices' existing workloads.

In making decisions and issuing policy directives and plans over the years concerning the distribution and processing of Gulf War veteran claims, VBA management did not seem to fully understand the regional offices' actual day-to-day experiences in dealing with these claims. In particular, they may not have fully understood the effect on the regional offices' operations when ordering readjudication of many Gulf War veterans' claim and later to decentralize Gulf War claims processing. One example is VBA management's response to changing demands on the organization when establishing milestones for completing the readjudication of approximately 11,000 Gulf War veterans' claims just discussed. At the Central Office-sponsored Gulf War claims training session in Cleveland in early June of 1997, VBA Central Office representatives instructed attendees that all readjudicated claims were to be completed by September 1—just three months later. This goal was set even though almost none of the regional office personnel had previously dealt with some of the issues that Gulf War claims uniquely raise and the readjudications were to be done on top of existing workloads. Not surprisingly, the September 1, 1997 target date was not met by any regional office. Central Office VBA management, perhaps realizing they had set an overly ambitious and unattainable goal, next announced in mid-September that these claims now had to be completed by the end of October 1997.<sup>130</sup> When this target date too had come and gone, the deadline for completing all readjudication claims was pushed back to December 31, 1997.<sup>131</sup>

As of May 8, 1998, 224 readjudication claims were still not completed.<sup>132</sup> It appears that VA's attempts at goal setting for actions affecting priority groups like Gulf War veterans were done with the Gulf War veterans' best interests in mind. The fact that the milestone dates for completing the readjudication claims were adjusted a number of times reflects VA's recognition that these Gulf War veterans' claims require more attention than other claims. However, it is important and necessary in future setting of goals that VA fully understand the implications of plans made, ensures that those plans are realistic, and ensures resources adequate to implement them are available.

VBA's handling of the Gulf War claims readjudication process illustrates VA's overall problems with planning and allocating resources necessary to serve Gulf War veterans. Although Gulf War claims had been processed for almost two years at the Louisville regional office, VBA management seems to have assumed that the problems of claims processing could be addressed by merely expanding the number of regional offices working on these claims from one to four. This assumption proved to be unrealistic. When claims processing efficiency for all claims at the four area processing offices diminished as a result of increased workloads the result was transfer of claims from the area processing offices to other regional offices, again isolating veterans from compensation decision makers. In the end, the ultimate response to claims processing timeliness and efficiency problems was to send Gulf War veterans' compensation claims back to the regional offices that would have originally handled them if the attempt to centralize review of Gulf War veteran claims had not occurred.

Over a year after the decision was made to decentralize Gulf War claims from the area processing offices to the regional offices, the workload generated by Gulf War veterans' claims still strains the resources of many regional offices. For example, the SIU's investigators found some regional offices were devoting as many as one-fifth their total number of compensation decision makers to work on Gulf War claims, yet these claims accounted for only one to two percent of those offices' total workload. On the surface this appears to be a responsive gesture toward processing of Gulf War veterans' claims. However, every regional office visited by SIU investigators during the tenure of this investigation indicated that their ability to adjudicate claims from Gulf War veterans in a timely fashion and all other veterans' pending claims had been significantly reduced as a result of the redistribution of Gulf War claims to all regional offices. One explanation, discussed later in this chapter, is that VBA has not yet addressed issues of quality of Gulf War claims processing by fully training all compensation decision makers in the intricacies of processing claims involving undiagnosed illnesses.

## **INFORMATION MANAGEMENT PROBLEMS HINDER TIMELY AND EFFICIENT DELIVERY OF VA BENEFITS AND HEALTH CARE SERVICES TO GULF WAR VETERANS**

For years, decisions affecting Gulf War veterans have been made by Congress and VA based in part on data collected, analyzed, and provided by VA. For example, beginning in April of 1995 and until August 1997, VBA provided this Committee and interested groups such as veterans service organizations a monthly report. This report contained statistics on the number and status of disability claims filed by Gulf War veterans who are sick due to undiagnosed illnesses and other illnesses resulting from exposure to environmental hazards during their service in the Gulf.<sup>133</sup> The report was based on data drawn from several sources within VA, particularly from VBA's disability benefits payment system database and the Gulf War Tracker. The information in these reports was widely assumed to be reliable and many policy decisions affecting Gulf War veterans were made based on them. Unfortunately, as the SIU discovered and as is discussed below, the data in these reports was flawed in many ways. The result of the inaccuracies has been that efforts to assist Gulf War veterans and make informed decisions regarding delivery of health care services and benefits to those veterans may have been adversely affected, or at least less than what might have been done.

One decision that was based in part on flawed data generated by VA was the determination by VBA, described above, to readjudicate the approximately 4,400 claims by Gulf War that had been denied based solely on the original two year presumptive period. At that time, VA felt that the readjudication of these claims was necessary because the extension to the presumptive rule would result in more veterans receiving compensation payments. However, only a few hundred grants of service connection for undiagnosed illnesses have resulted from the readjudication of these claims.<sup>134</sup> This suggests that data was poorly collected and managed so that many of the claims that had been recorded as denied because the veteran's undiagnosed illness fell outside the original two-year presumptive rule were in fact denied on other grounds.

In response to questions about the validity of its data from SIU investigators, VA acknowledged that it had not adequately collected and analyzed data sufficient for shaping informed decisions on Gulf War veterans. VA reached this conclusion by reviewing the sources of the information and comparing that data to what should have been identical data. For example, VA compared its data concerning the number of Gulf War veterans who were discharged from the military against DOD-generated data on discharged military personnel. The result of this comparison led VA to conclude that many more Gulf War veterans were receiving compensation payments from VA than was previously believed. For example, VA had generated and distributed reports, and had testified before Congress based on those reports, that in April 1997, 28,580 veterans were receiving compensation payments for service-connected conditions based on their service during the Gulf War. However, once it compared its claims data to DOD's data at the suggestion of SIU investigators, VA discovered that 69,613 Gulf War veterans—over twice what VA had believed to be the case—were in fact receiving compensation payments.<sup>135</sup>

VA reacted swiftly when it discovered that the statistics on Gulf War veteran claims that it had made public and on which it and others had relied were inaccurate. VA's Acting Secretary at that time stated in a letter to the Chairman and Ranking Member of this Committee that he "[could] not

claim confidence in the data previously provided [to the Committee]. This is an embarrassment to the Department of Veterans Affairs.”<sup>136</sup> The Acting Secretary immediately designated a senior executive under the leadership of VA’s Assistant Secretary for Policy and Planning to serve as the Project Manager for management of Gulf War information. At the same time, the Acting Secretary appointed the Assistant Secretary for Policy and Planning as the Department’s liaison to Congress on all Gulf War issues and to “coordinat[e] all departmental information pertaining to the Persian Gulf conflict.”<sup>137</sup>

VA must continue to improve its internal information systems so that accurate and reliable data on Gulf War veterans’ claims can be produced, although it has not and will not be an easy task for VA at this point to do so. In addressing this problem, to date VA has succeeded in producing only basic data on Gulf War veterans on a quarterly basis but it is hoped that policy decision makers soon will be able to rely on complete, validated information when analyzing actions needed on behalf on Gulf War veterans. To accomplish this, VA must eliminate the internal problems that have hindered it in responding to Gulf War veterans’ concerns in a timely and effective way. For example, to date VBA and VHA have been reluctant to provide VA’s project manager for Gulf War veterans’ data with full access to the information they administer despite the priority to do so established by the Secretary-Designate in September 1997.

Despite the Acting Secretary’s commitment that the VA would correct its faulty data and would not use such statistics again until the information was proved valid, VA has continued to publicly release and use statistics about Gulf War veterans health care and benefits that are unverified. For example, in testimony before the House Committee on Veterans Affairs on February 5, 1998, VA’s Under Secretary for Benefits cited statistics drawn from VBA’s databases which remained of questionable validity. During that testimony the Under Secretary cited two different figures—2,306 and 1,590—as the number of VBA decisions granting service connection for undiagnosed illness.<sup>138</sup> The discrepancy in numbers was explained by the Under Secretary as due to the fact they were generated by unrelated data systems in VBA. Regardless of the reason for the discrepancy, neither figure matches the number validated by VA’s project manager for Gulf War veterans’ data (and the number that will be used for purposes of this report) of 1,492 undiagnosed illness compensation grants. This figure was publicly released by the Assistant Secretary for Policy and Planning less than a week before that hearing and presumably was available for use in VA’s testimony at that time. Moreover, it is unlikely that this number could have increased by either 100 or 800 claims in a matter of days.<sup>139</sup>

At the same hearing, VA’s Under Secretary for Health stated that between 10 and 25 percent of the approximately 66,000 Gulf War veterans who have participated in the Persian Gulf Registry Program—that is, between 6,600 and 16,000 veterans—have been found by VA doctors to have unexplained illnesses.<sup>140</sup> These numbers are far greater than the VBA’s estimated numbers of from approximately 1,600 to 2,300 Gulf War veterans who are service-connected for undiagnosed illnesses and raise the question why so few Gulf War veterans who have undiagnosed illnesses are receiving

VA compensation. In any event, any public use by VA officials of data that is known or should be known to be questionable seriously weakens VA's credibility as to its entire Gulf War program. VA's continuing failure to generate accurate data on the number of Gulf War veterans with undiagnosed illnesses suggests that VA at present cannot accurately determine who it serves and how it serves them. As discussed later in this chapter, this failure to resolve clear conflicts and contradictions in the information maintained in VBA and VHA has serious implications for service to Gulf War veterans.

## **INEFFECTIVE MONITORING OF HEALTH CARE AND BENEFITS ADMINISTRATION RESULTS IN INCONSISTENT DELIVERY OF VA BENEFITS TO GULF WAR VETERANS**

It is one of VA's highest priorities to deliver health care treatment to all Gulf War veterans with service-connected disabilities. Yet VA, when asked in October of 1997 about the 1,360 veterans who its statistics indicated were at that time service-connected for undiagnosed illness, could not say whether those veterans were also receiving treatment for those illnesses. VA has collected data to determine if an individual Gulf War veteran has received inpatient or outpatient medical services at a VA facility, but the data does not indicate for what condition. In the case of a veteran with a service-connected undiagnosed illness who seeks inpatient or outpatient treatment for that service-connected illness, VA has been unable to consistently track whether the undiagnosed condition has improved or worsened.

Moreover, many more Gulf War veterans may be entitled to compensation for Gulf War veterans with undiagnosed illnesses than currently are receiving such benefits. There does not seem to be any coordinated effort at VA to date to determine why 6,600 to 16,000 veterans on the Persian Gulf Registry have been determined to have an unexplained illness yet far fewer veterans are receiving compensation for service-connected undiagnosed illnesses. When SIU investigators discussed this issue with VA officials, they could not explain why this situation exists nor did they know which Persian Gulf Registry participants with undiagnosed illnesses have filed claims for compensation.

VA has made no effort to monitor in an organized way the health outcomes of Gulf War veterans with undiagnosed illnesses on either the health registry or service-connected compensation rolls. VA has stated, however, that as of February 1998, 140,000 of the nearly 700,000 veterans who served in the Gulf War conflict<sup>141</sup> have had their claims adjudicated to establish a service-connected disability and 243,000 Gulf War veterans have used VA medical facilities in some way since their return from the war.<sup>142</sup> Both VA and DOD express concerns that valid scientific conclusions could not be made by tracking this inherently self-selected population of veterans choosing to file claims or use VA health care facilities. Nevertheless, the VA is missing opportunities to discover what, if any, similarities exist in the health status of the almost 40 percent of the total Gulf War veteran

population that has sought medical services at VA medical facilities by monitoring their health outcomes.

Analogous to VHA's ineffective monitoring of Gulf War veterans' health status is VBA's inability to effectively resolve claims filed by Gulf War veterans. SIU investigators interviewed many regional office employees across the country who almost universally noted the difficult and time-consuming nature of Gulf War veterans claims involving undiagnosed illnesses as compared to other claims. However, while these claims generally require the application of different rules and more attention to detail than do other claims, they do not generally involve the level of complexity or require the amount of resources that regional office personnel attribute to them. An exception to this is the question of how to handle claims involving undiagnosed illness when that issue is not specifically raised by the veteran but is inferred from evidence in the claims record.

Precisely because of its undiagnosed nature, questions about the causes of illnesses suffered by Gulf War veterans often are difficult to determine. During site visits to regional offices, SIU investigators reviewed a limited number of already-processed Gulf War veteran claims in which a finding of an undiagnosed illness was not part of the decision. However, in some of these claims SIU investigators identified symptoms in the veteran's claims record that were unrelated to a diagnosis and thus should have been considered inferred claims for "undiagnosed illnesses." It is likely that this circumstance is true for some number of claims other than those reviewed by SIU investigators, suggesting that at least some of the aggregate number of Gulf War veterans' claims may need to be revisited in the future either when veterans or their service organization representatives request reconsideration of the claims or if appealed to the Board of Veterans Appeals.

As described earlier in this chapter, VA believed it could best serve Gulf War veterans who filed disability compensation claims for undiagnosed illnesses by centralizing claims processing at four area processing offices because in doing so the expertise of the compensation decision makers at those offices would increase. Intense training efforts were conducted for these decision makers at the time VA designated these four area processing offices. However, VBA management's quality reviews repeatedly indicated that VBA decision makers at the area processing offices had not been able to produce adequate quality decisions. For example, in some claims there was a failure to consider all issues reflected by evidence in the record and decisions were made knowing that the record was incomplete.<sup>143</sup> In addition to producing incorrect decisions on many of these claims, internal VA reviews conducted between November 1995 and April 1997 also showed that because the four area processing offices that had been assigned the task of reviewing all Gulf War veterans' compensation claims were overwhelmed by the volume of claims related to exposure to environmental hazards, large backlogs of those claims developed.<sup>144</sup> This meant that Gulf War veterans were not receiving timely decisions on their claims.

When this large backlog triggered the May 1997 redistribution of Gulf War claims back to regional offices,<sup>145</sup> training for regional office personnel was provided. However, the SIU learned that

many employees in the regional offices who are now either making decisions on Gulf War veteran claims or are reviewing them for accuracy never received this training. As a consequence, Gulf War veterans, at least where the issue of quality of decision making on Gulf War veteran claims is concerned, may not be benefitting from VA's decision to redistribute Gulf War claims. Moreover, during site visits to numerous regional offices around the country, SIU investigators reviewed already-processed Gulf War veteran claims that had previously been validated as correct as part of the regional offices' quality assessment efforts since these claims were returned to them for processing. The SIU's investigators found inconsistent quality and numerous errors although these claims had already been validated as correct by the regional offices. Unfortunately, it does not appear that Gulf War veterans' claims are unique in this regard. VBA has recently identified an overall error rate of 36 percent in claims processed by VBA.<sup>146</sup> Because VBA employees stated to SIU investigators that they find Gulf War claims difficult because they are complex and involve many issues, the SIU believes that the error rate in Gulf War claims decisions is likely to be higher than 36 percent.

In view of these quality problems and the fact that each claim may also contain unaddressed issues that can be but may not have been inferred from the claims record, VBA's readjudication effort may create more problems than it solves if the ultimate result is large numbers of appeals to the Board of Veterans' Appeals (BVA). Additionally, when incorrectly processed claims are reviewed by the BVA, they may be remanded for correction to the regional offices where they originated. Appeals are easily the most expensive and labor-intensive component of VA's claims process.<sup>147</sup> However, the costs may be felt more by Gulf War veterans who must endure longer waits before receiving decisions on their claims. This may be especially true since early indications suggest that there may be a high remand rate on Gulf War veterans' claims<sup>148</sup> if they move into the appellate stage without adequate claims resolution. However, the SIU was unable to discern much interest in or efforts by or between the VBA and the BVA to plan for the possibility that many of the pending Gulf War claims may require remands. Much will depend on the Gulf War veterans' awareness about VA's claims process and motivation to pursue their claims at the appeal level in order to receive adequate resolution of their claims.

### **VA DOES NOT COMPLY WITH ITS OWN REGULATIONS AND POLICY DIRECTIVES**

A primary role of the VA's Central Office is to develop regulations and policies that provide guidance as to what and how benefits and services are to be delivered to veterans. Policy makers and program administrators at the highest level in VA need to know if regional offices and medical facilities are actually implementing these instructions. The VA at the national level articulates well what must be done and what it is doing for Gulf War veterans with undiagnosed illnesses. Yet there is little evidence that these articulated policies are actually being implemented at the points where benefits and services are delivered to veterans: in regional offices and medical facilities.

Regional office personnel rely on thorough medical evaluations by VHA physicians in order to make decisions on veteran's compensation eligibility. Yet, all too often regional office personnel that



were interviewed by SIU investigators complained about the inadequacy of many medical evaluations and feel they have little influence over the inconsistent results of examinations. SIU investigators learned that examining physicians were able to conclude during a Persian Gulf Registry examination that a veteran had an undiagnosed illness. However, the same conclusion was not reached during an examination for compensation benefits, even though often both examinations are conducted by the same physician. Further, SIU investigators also found veterans' health records that listed "Gulf War Syndrome" or "Multiple Chemical Sensitivity" as a diagnosis upon completion of an examination for compensation benefits. However, VA does not recognize "Gulf War Syndrome" or "Multiple Chemical Sensitivity" as a treatment diagnosis for VA health care purposes or for compensation payment purposes. That this situation exists suggests that VA is not complying with its own definition of undiagnosed illnesses. It also suggests that VA is setting separate standards for the Persian Gulf Registry examination and the compensation examination to reach a determination that the veteran has an undiagnosed illness.

Another area in which the SIU identified significant failures on the part of the VA to follow its own regulations and directives is in the development and adjudication of inferred issues. As was mentioned earlier in this chapter, an inferred issue is a "sign or symptom" that is unrelated to a diagnosis which appears in the record but is not specifically articulated by a veteran as a claim for compensation.<sup>149</sup> In such situations, VA personnel reviewing a claim are required to consider the "sign or symptom" as if the veteran had specifically filed a compensation claim for that condition.<sup>150</sup> However, when SIU investigators examined Gulf War veterans' claims files at various regional offices, VA personnel in 16 out of 22 offices visited had failed to develop and adjudicate inferred issues. One regional office told SIU investigators that it is that office's policy that a veteran must specifically indicate that a claim is due to an undiagnosed illness or it will not be developed as such; this office consequently had never developed or adjudicated inferred issues in any Gulf War claims.

In addition to these problem areas, the SIU found numerous other failures on the part of the VA to follow its own regulations and directives. One of these involves the legal standards upon which claims for undiagnosed illness were denied. In some regional offices, VA personnel determined that veterans' claims for undiagnosed illnesses were not well grounded, meaning that they were not plausible or capable of being supported by proof or evidence.<sup>151</sup> However, at a national training conference, VBA management personnel instructed that due to the unique nature of an undiagnosed illness and the difficulty in medically linking the illness to military service, Gulf War claims should be found well grounded in almost all cases.<sup>152</sup> In addition, some undiagnosed illness claims that originally had been denied were again denied on re-review after the presumptive period's extension on the grounds that no new and material evidence had been submitted to support the claims. This is contrary to legal precedent holding that it is improper to employ a new and material evidence standard for issues in a veteran's claim that are being readjudicated under a liberalizing law (which in this case is the extended presumptive period during which a Gulf War veteran can qualify for compensation payments based on an undiagnosed illness).<sup>153</sup> Moreover, SIU investigators found upon review of Gulf War veterans' claims completed in the regional offices that compensation

decision makers failed to consider the veterans' symptoms under the undiagnosed illness regulation, even though the symptoms met the criteria for that consideration.<sup>154</sup> Additionally, VA personnel at some regional offices failed to conform to guidelines by prematurely adjudicating undiagnosed illness claims although the claims file had not been reviewed by the examining physician prior to completion of an examination nor had required specialist referral examinations occurred.<sup>155</sup> Based on this evidence, it appears that the VA's failure to comply with its own regulations and policies may be adversely affecting Gulf War veterans' abilities to qualify for the benefits Congress intended them to receive.

GAO's preliminary observations on medical care provided to Gulf War veterans are parallel to the SIU investigators' findings that VHA directives developed to make it possible for medical personnel to respond to the health care needs of Gulf War veterans are not being followed.<sup>156</sup> For example, VHA's Persian Gulf Registry directives list clinical procedures and policies to be followed in conducting physical examinations of Gulf War veterans and for ordering diagnostic studies to determine the scope of Gulf War veterans' illnesses. When the health registry examination process is completed and the veteran still has an illness that is undiagnosed, VHA directives state that the veteran should be referred for further evaluation to one of VA's four Gulf War Referral Centers located in Birmingham, Houston, Washington, D.C., and West Los Angeles.<sup>157</sup> Although VA directives are very specific as to what is required, the SIU learned that medical facilities across the country are confused over the directives to follow in assessing Gulf War veterans' health, when to do additional evaluations, and when to refer a veteran to a Gulf War Referral Center.

VHA directives establish that the health registry examination process be divided into two phases. Phase I is intended to serve as an opportunity to obtain a medical and occupational history from the veteran followed by a physical examination with additional diagnostic studies and tests conducted if needed. If at the end of the Phase I examination a Gulf War veteran still has an illness that is undiagnosed, a Phase II examination under VHA directives is required to perform supplemental laboratory tests and consultations.<sup>158</sup> Several Gulf War physicians told SIU investigators that they were confused over when to refer a Gulf War veteran to the second phase of the examination process. Other Gulf War physicians informed SIU investigators that they do not feel that the Phase II examination is necessary. Consequently, if some physicians do not understand the extent to which they are authorized to go in order to assess the health status of Gulf War veterans with undiagnosed illnesses, then some Gulf War veterans may not be receiving the level of medical attention required to overcome their health problems.

In testimony before the House Committee on Veterans' Affairs Subcommittee on Health, GAO reiterated that Gulf War veterans who do not receive a diagnosis after Phase II are to be referred for further evaluation at one of VA's four Gulf War Referral Centers. However, of the approximately 6,600 to 16,000 Gulf War veterans that VA reported as having undiagnosed illnesses, only about 500 have been evaluated at a referral center. Additionally, after a review of medical records and discussions with program officials, including physicians, GAO concluded that it did not appear that

VA's directives were being consistently applied by the medical facilities. For example, the GAO noted that physicians did not provide all of the tests to veterans that were called for in VA's guidance. Also, in several cases, the physician's diagnosis was simply a restatement of the veteran's symptoms.<sup>159</sup> These examples suggest that VHA's guidance to Gulf War physicians simply is not clear enough to result in proper compliance. When VHA physicians do not follow the medical protocols established to help them and Gulf War veterans understand the scope of the veterans' health status, then veterans are placed at greater risks of never receiving appropriate medical attention to overcome their illnesses.

### **INADEQUATE INTERNAL INFORMATION SHARING AT VA CREATES BARRIERS THAT HINDER EFFORTS TO DELIVER BENEFITS AND SERVICES**

Communication problems between VA's Central Office and personnel in local facilities are pervasive across the country. These problems have yet to be adequately acknowledged or addressed at VA. The SIU's investigation indicates that VBA management program offices often do not communicate effectively with each other. VA Central Office program managers often do not communicate well with field level program managers; VA field level managers often do not talk to field managers in other regional offices. As discussed below, these failures to share important information and to collaborate based on that information contributes to an atomized approach to providing services which in turn fosters the frustration that Gulf War veterans often express in dealing with VA.

VA encourages Gulf War veterans to seek health care services and compensation benefits if they believe their health was adversely affected while serving in the military. For example, VA has held numerous public forums targeted at providing information to Gulf War veterans about VA services and programs available to them. However, Gulf War veterans seeking health care and compensation payments from VA are faced with two separate and distinct VA systems: the Veterans Health Administration, designed to provide health care, and the Veterans Benefits Administration, designed to provide compensation and pension benefits. The SIU's investigators determined that these two systems have not worked well together and that this lack of cooperation has an adverse impact on Gulf War veterans' ability to obtain both high quality health care and timely and accurate compensation decisions from VA.

A determination of service connection for a veteran's health problems often means more to that veteran than the ability to receive compensation payments. Such a determination means the difference between getting health care at VA medical facilities and not getting it, because veterans receive health care services from VA for conditions that are determined to be service-connected. The SIU, however, was not convinced that the VA fully understands this reality, since VA health care providers and claims processors do not share a common understanding of the process of determining whether a health condition is service-connected.

For example, the SIU found that Gulf War veterans are often confused over the relationship between the health care providers in VHA and the VBA regional office personnel deciding their compensation eligibility. When a Gulf War veteran elects to participate in the Persian Gulf Registry program, he or she undergoes a physical examination (including laboratory tests and specialist referrals where necessary) to determine his or her health status. If this same veteran has filed a claim for compensation, he or she often undergoes another physical examination (including laboratory tests and specialist referrals), again to determine that veteran's health status. Not only are these sometimes duplicative examinations, but the VA's failure to ensure that one examination will suffice for both Registry and claims processing purposes unnecessarily confuses the veteran. Some veterans believe that by participating in the Persian Gulf Registry program they are applying for compensation benefits. Some veterans also believe that by undergoing the Persian Gulf Registry examination they are fulfilling the requirement to undergo a compensation examination.

This confusion is easy to understand, since some portions of the examination, such as laboratory tests and specialist referrals, are identical, and the examinations often are administered by the same medical personnel. Often, there was a failure to understand that all veterans' health records are evidence to be considered in compensation claims. Officials at most of the medical facilities visited by SIU investigators stated that they do inform veterans about their possible eligibility for health care. However, SIU investigators found very inconsistent efforts among these facilities to inform Gulf War veterans about other benefits such as compensation that might be available to them, particularly when through Persian Gulf Registry examinations they are found to have undiagnosed illnesses.

SIU investigators interviewed the Veterans Registry Physician and Coordinator at each medical facility visited during the course of this investigation. Based on these interviews, it appears that many of these registry physicians and coordinators do tell the Gulf War veterans with whom they deal about their possible eligibility for compensation benefits. This may be attributed to the fact that approximately three-fourths of registry physicians interviewed also conduct or are responsible for compensation examinations. However, benefit information is not always provided to the Gulf War veteran in these situations. For example, one registry physician told SIU investigators that he feels that discussing benefits as part of a medical appointment distracts veterans from concentrating on how to improve their health. At least, however, at this physician's medical facility the letter sent to the veteran to summarize the results of the registry examination states that the Persian Gulf Registry examination does not automatically initiate a claim for compensation benefits. Further, the letter includes the address and telephone number of the nearest regional office from which veterans can receive assistance with filing compensation claims. The SIU found that while this may not be the optimal method of helping Gulf War veterans understand their potential eligibility to VA compensation benefits, it is a step in the right direction.

The SIU further found that the disconnect between the health care process and the compensation claims process begins at the highest level in VA, where personnel do not routinely or effectively communicate across organizational lines. One example occurred during a national

training program for regional office claims processors and decision makers. VBA Central Office's Director of the Compensation and Pension Service was asked at that meeting by the training program participants to take a leadership role in building a more cooperative relationship with the Department's health care officials in VHA. However, the Central Office official dismissed the suggestion and told the regional office staff present to work things out at the local level. With over 50 regional claims processing offices and hundreds of medical facilities, VBA management leaders have the opportunity to assert a much-needed leadership role in forging closer and more effective working relationships between VHA and VBA across the country. Instead, at least at the national training program just mentioned, VBA management has relinquished the opportunity to establish departmental policies that would apply to tens of thousands of VA employees nationwide and to increase cooperation, thereby making it more able to provide more efficient, higher quality service to Gulf War veterans. This lack of coordination from the top, compounded by conflicting local priorities at various VA facilities, make it more likely that Gulf War veterans will face unnecessary barriers to obtaining VA services during the very times when they need VA's help the most.

Communication problems in VA are not unique to the relationship between that agency's health care providers and its compensation experts. Communication problems can also be found in the relationship between Veterans Benefits Administration and the Board of Veterans Appeals, which functions as an appellate reviewer of compensation claim decisions made by the regional offices. However, BVA is not a separate entity like the Court of Veterans' Appeals, which provides judicial oversight of decisions made by the BVA. Instead, for example, the Chairman of BVA reports to the Secretary of Veterans Affairs and BVA employees are considered employees of VA. The BVA is viewed by many as an arm of VA since it shares resources with the rest of VA and already works with the VBA and its regional offices on many levels. Nevertheless, the SIU believes BVA can continue to provide an independent appellate review of VBA decisions while cooperating more in facilitating consistent quality service of Gulf War veterans.

However, BVA's internal resistance to cooperation is evident in the relationships between the BVA and other components of VA. For example, there has been little cooperation between the BVA and VBA to date on how to best handle the unique problems posed by Gulf War veterans' claims, especially on the subject of undiagnosed illnesses. Extensive policies and procedures have been developed by VBA, based on the applicable statutes and implementing regulations, which govern the adjudication of Gulf War claims. It would make sense that if a veteran disagrees with how his or her claim was adjudicated by a regional office and appeals to the BVA, the BVA would examine the veteran's claim, ensure that the regional office complied with all applicable laws, rules and policies, and apply these criteria in rendering its appellate decision. However, this is not always the case. In response to questions for the record from the SIU, the BVA asserted that it "is not bound by VBA manuals" nor to "Department manuals, circulars, or similar administrative issues, including VBA-VHA memoranda" in making decisions on appeals.<sup>160</sup> In practice, this means that Gulf War veterans encounter one set of rules and policies when their claims are adjudicated by the regional

offices on the merits and a different, not necessarily consistent, set of policies and rules when they seek appellate review by the BVA.

As has been discussed already, there is a higher remand rate for Gulf War veteran undiagnosed illness claims than for the overall body of all claims appealed to BVA.<sup>161</sup> This disparity in remand rates may be caused at least in part by the differing standards applied by regional offices and by BVA. The BVA attempted to explain the high remand rate by stating that “anecdotal evidence suggests that the [sic] many of these claims had to be remanded because the regional offices had not yet had an opportunity to review the claims under 38 C.F.R. § 3.317 [the regulatory authority for undiagnosed illness].”<sup>162</sup> However, it is questionable how Gulf War veterans’ claims could reach the BVA without the standards of § 3.317 being applied given that this regulation dates back over three years to February of 1995. Based on SIU investigators’ review of over 125 BVA decisions written from January 1995 to August 1997, the SIU concludes that the BVA is not applying the rules that VBA applies and can find no justification for this state of affairs to exist.

The SIU also found that a lack of information sharing within VHA has resulted in less than could be done to systematically follow-up on the medical care VA already has provided to Gulf War veterans. Others have raised this same concern and have criticized VA for not monitoring the treatment provided to Gulf War veterans. For example, in June 1997, GAO reported that VA did not have a mechanism for monitoring the quality of Gulf War veterans’ care or their clinical progress after their initial examination. The report recommended that VA (as well as DOD) develop and implement a plan to monitor the clinical progress of Gulf War veterans in order to help promote appropriate and effective treatment and provide direction to the research agenda.<sup>163</sup> In response to GAO’s recommendation, VHA leaders in Central Office suggested to medical personnel in the field that perhaps a case management approach to Gulf War veterans’ medical care might improve the ongoing medical services provided to these veterans. Because case management would mean that a limited number of medical personnel would be responsible for following the medical care provided to Gulf War veterans, VHA encouraged its field personnel to employ this mechanism to ensure appropriate treatment is provided to Gulf War veterans when needed.

Unfortunately, SIU investigators observed (as has GAO) that nearly all of the VA medical facilities visited during this investigation made little or no effort to follow-up on the care they provided to Gulf War veterans.<sup>164</sup> Only two of the thirty-four VA medical facilities SIU investigators visited as part of this investigation utilized case management as an approach to following the Gulf War veteran’s medical care. All other facilities visited did not use a case management approach to health care but rather assigned Gulf War veterans as a routine matter to the first available primary care group. Less than half of the medical facilities inspected assigned veterans routinely to primary care. One medical facility assigned all Gulf War veterans seeking a Persian Gulf Registry examination to primary care. However, if the primary care physician at that facility is not satisfied with the patient’s progress, the veteran is referred to the medical facility’s specialty clinic for Gulf War veterans. Although these other approaches may work in some instances, they do not ensure that the

primary care physician has been trained or is familiar with the specific health care needs of Gulf War veterans. Additionally, referral to a specialty clinic does not necessarily mean that treatment outcomes will be systematically collected and analyzed by others who may be providing medical care to the veteran.

## **INADEQUATE IMPLEMENTATION OF SERVICES AND BENEFITS FOR GULF WAR VETERANS**

**B**ased on the results of this investigation, it seems clear that VA must do a better job at planning and allocating the resources needed to adequately respond to Gulf War veterans' needs. To VA's credit and as was discussed earlier, since 1991 VA leaders have established priorities to facilitate the delivery of VA health care services to and disability claims processing for Gulf War veterans. This action was essential to respond to growing concerns over Gulf War veterans' health problems and the potential link between their health concerns and events or exposures during the Gulf War. However, the gap at VA between good intentions and real action quickly became apparent as increasing numbers of Gulf War veterans fell ill and sought the priority treatment from VA that they had been promised. As discussed below, the shortfalls in delivery of services to Gulf War veterans that have occurred since VA declared these veterans to be one of VA's top priorities are attributable to an early and ongoing failure to adequately plan for or fund Gulf War veteran programs.

Regional office personnel who are tasked with implementing programs established by VBA management to serve Gulf War veterans find that they are at times struggling between policy implications and practical realities. For example, VA policy requires a follow up examination be done on Gulf War veterans within 24 months of their last examination of record in claims where service connection has been awarded for an undiagnosed illness.<sup>165</sup> Regional office personnel expressed to SIU investigators uncertainty as to what to do when a Gulf War veteran's service-connected undiagnosed illness is later labeled with a known clinical diagnosis. Although VA regulations provide for the termination or reduction of benefits in such a situation,<sup>166</sup> regional office personnel stated to SIU investigators that they anticipate much resistance from veterans if their compensation payments are reduced or taken away altogether. Personnel at the regional offices have indicated to SIU investigators that VBA Central Office needs to enunciate a definitive policy in this area in the near future to avoid unnecessary hardships to Gulf War veterans and to guide regional office personnel who are helping those veterans. As of the writing of this report, the SIU was unable to ascertain whether Central Office personnel have provided guidance to regional office personnel on this issue.

Another example of a shortfall in implementing a program to ensure that Gulf War veterans receive the compensation benefits they deserve is demonstrated in the high remand rate evident in Gulf War claims that were appealed to the BVA during the period from January 1, 1995, through June 30, 1997.<sup>167</sup> As discussed earlier in this chapter, the BVA has indicated that it had to remand many Gulf War veterans' compensation claims to the regional offices because of a failure to review

the claims under the undiagnosed illness criteria. Some of those remands were necessary in order to give Gulf War veterans an opportunity to have their compensation claims reconsidered by the regional offices because of revised undiagnosed illness criteria that became effective in February of 1995, after their claims were sent to the BVA. However, it is unclear why regional offices are still referring Gulf War veterans' compensation claims without first considering the claim under criteria that has been in effect for over three years and identifying all claimed and inferred issues in the record. VA must ensure that the undiagnosed illness criteria that are already in place and any new regulations applicable to Gulf War veterans' claims are considered by the regional office decision-maker prior to forwarding the claims to the BVA.

The SIU is also concerned about another quality issue involving Gulf War veterans' compensation claims. VBA management delayed until February 1998 before conducting the first quality review of Gulf War claims since ordering redistribution of these claims to regional offices in May of 1997. Thus, regional offices were left to adjudicate these claims for many months with no oversight by the Central Office to evaluate the accuracy of decisions being made in these cases. Although all the regional offices had been conducting their own quality review of Gulf War claims during this time at the direction of VA's Central Office, the SIU's investigation found that those quality review programs often are ineffective and inaccurate.<sup>168</sup> A possible explanation for the ineffective and inaccurate quality review programs at the regional offices may be that they were operating without the basic technical expertise that Central Office oversight reviews would have provided. Additionally, without VBA management oversight, the regional offices could not know what, if any, resources needed to be allocated to the Gulf War program during this time, particularly to achieve the processing benchmarks they were instructed to achieve.

The administration of health care services at VHA has similar deficiencies that result in less than optimal service to Gulf War veterans. The entire Gulf War veterans health program in VA Central Office is the responsibility of only a few people who are also charged with other important VA health care issues such as VA's Agent Orange programs for Vietnam veterans and their children. Admittedly, personnel in any organization are often responsible for a myriad of assignments. In the case of Gulf War veteran programs, assigning too few personnel with too many conflicting priorities to implement them is not consistent with the priority placed upon these programs by VA and provides little flexibility to appropriately address emerging issues. Inevitably, conflicting priorities place strains on a small staff to the extent that some functions are not done well or simply not done at all.

VHA's response to DOD's announcement of the presence of chemical weapons at the Khamisiyah site, discussed in Chapter One, also demonstrates how implementing aspects of Gulf War veterans health programs from VA Central Office may not always receive the level of attention they merit. In July of 1997, SIU investigators were briefed jointly by DOD, CIA, and VA on the results of their plume modeling analyses of the possible release of nerve agent at the Khamisiyah site. At that meeting, VA officials responded to questions about DOD's release of a letter notifying over 100,000



service members of their potential exposure to some low level of nerve agent after the Khamisiyah incident. They said that background information on the incident would be sent to all VA medical facilities. Since many of these 100,000-plus service members are now veterans, this information would seem to be crucial for fully informed medical histories should these veteran seek medical services from VA for symptoms that they believe might be associated with nerve agent exposure. However, during site visits by SIU investigators to 34 VA medical facilities, only one physician acknowledged receipt of the information. The other physicians told SIU investigators that they learned about the letters from veterans themselves, and many indicated they were embarrassed not to have had advance notice from VHA of the letters. The information may have been sent to all VA medical facilities and for some reason did not reach the health care providers treating Gulf War veterans. However, this example suggests that the demands on the VHA Central Office staff responsible for Gulf War veterans' health care issues may be too great to ensure that health care information pertinent to Gulf War veterans is widely distributed at the service delivery level.

#### **VA HAS UNDERESTIMATED WHAT IS NEEDED BY ITS VETERANS REGISTRY PHYSICIANS TO DELIVER PRIORITY HEALTH CARE SERVICES TO GULF WAR VETERANS**

At each medical facility across the country, VA has designated a Veterans Registry Physician to be responsible for oversight and coordination of the medical aspects of the Persian Gulf Registry program, particularly in providing medical examinations for Gulf War veterans who participate in the registry. However, the SIU learned that non-physicians were conducting registry examinations at many of the medical facilities visited by SIU investigators. At nine medical facilities visited by SIU investigators, non-physicians (in particular, physician assistants and nurse practitioners) conducted registry examinations. At another medical facility, the Veterans Registry Physician did not know who was doing the examinations. Although all of the Veterans Registry Physicians interviewed by SIU staff indicated they reviewed the results of the examinations completed by non-physicians, a review of the clinical records indicated that examinations done by non-physicians were not consistently countersigned by the Veteran Registry Physician as required by VHA directives.

There are many possible reasons why examinations conducted by non-physicians were not approved and countersigned by the Veterans Registry Physician. First, 32 of the 34 Veteran Registry Physicians interviewed by SIU investigators stated they were assigned additional duties ranging from as little as two to as many as seven assignments, including the Agent Orange Registry Program, Ionizing Radiation, and compensation examinations. On average, responsibilities in four additional areas were assigned to Veterans Registry Physicians. Many of the Veterans Registry Physicians and Veterans Registry Coordinators interviewed by SIU investigators stated that their local medical facilities allotted them four hours per week, or about 10 percent of their time, to perform Gulf War related work. To keep pace with the Gulf War priorities, some of the Veterans Registry Physicians and almost all of the Veterans Registry Coordinators stated that they work extra hours or take work home without any additional salary or compensation. Thus, it is possible that Gulf War veterans may

not be getting priority health care because the physicians responsible for these veterans' care have many other duties that exceed the time available to fully address them all.

### **TRAINING TO VETERAN REGISTRY PHYSICIANS IS UNEVEN**

It is fundamental that adequate training enhances an individual's ability to master assigned tasks. To encourage this, the VA's Office of Inspector General recommended in December of 1994 that VHA provide education and relevant in-service training seminars to VA employees who deal with Gulf War-related issues.<sup>169</sup> VHA responded to this recommendation by stating it was in the process of developing a series of annual medical education seminars for VA health care staff who provide care for Persian Gulf veterans. These seminars are designed to provide updated, state-of-the-art information on specific health issues and topics related to diseases endemic to the Persian Gulf area.<sup>170</sup>

VHA did develop and provide three national training programs—in Baltimore, Maryland in 1995 and in Long Beach, California in 1996 and again in 1997—targeted for clinical staff who are responsible for conducting Persian Gulf Registry examinations. However, SIU investigators discovered from interviews with officials at the medical facilities they visited that only about half of those interviewed who did these examinations have attended any of the training programs. In attempting to understand why these physicians are not receiving national training, SIU investigators were told that local managers believed the individuals attending the national training seminars would share the information obtained at those training seminars with the Veterans Registry Physicians. Unfortunately, this did not always occur, leaving some Veterans Registry Physicians without the latest medical information available within the VA health care system for treating Gulf War veterans. The VA, and certainly Gulf War veterans, would benefit if all personnel responsible for providing health care services to Gulf War veterans are informed and fully trained on the health issues arising from military service in the Gulf War.

### **VA'S NATIONAL LEVEL PROGRAM MANAGERS DO NOT EXERT SUFFICIENT OVERSIGHT OF IMPLEMENTATION OF GULF WAR VETERAN PROGRAMS AND SERVICES**

VA's Central Office establishes rules and policies to ensure proper administration of its programs by VA claims processing offices and medical facilities. At the same time there is also a trend within VA towards decentralization of power and authority over program administration. This approach may have some merit. However, the SIU found that VA Central Office program managers do not have ultimate control over implementation of priorities in the programs for which they are responsible. Instead, they must compete with field managers who have their own priorities in program implementation. Consequently, Gulf War veteran programs, like many others at VA, operate in an environment that fosters competition instead of cooperation within the agency. In turn, the delivery of health care services and compensation benefits to Gulf War veterans is inconsistent across the country and the national focus on making all Gulf War veterans a priority has suffered. Examples of

inconsistent delivery of services described earlier in this chapter include Gulf War physicians' understanding of when to conduct Phase I and Phase II Persian Gulf Registry examinations and when to refer a Gulf War veteran with an undiagnosed illness to a VA Gulf War Referral Center. Additionally, as discussed below, the quality of decisions made by regional office decision-makers across the country represents inconsistent delivery of compensation benefits to Gulf War veterans. In reviewing completed decisions on compensation claims filed by Gulf War veterans, SIU investigators found an error rate ranging from no errors to as high as 90 percent of those claims. These noted deficiencies in delivering health care and deciding compensation claims for Gulf War veterans implies that VBA management has not exerted the level of oversight of program administration and implementation that it should in order to properly implement programs for Gulf War veterans.

Quality assessment reviews of decisions made in Gulf War veterans' claims for compensation reflect deficiencies in implementing program policy. In order to ensure compliance with Gulf War laws, regulations, and policies concerning Gulf War veterans, each regional office is required to conduct a monthly quality review of Gulf War claims and to file a report of the results with VBA management. However, the SIU's review of monthly quality review reports showed that these reports do not appear to be designed to provide the information that Central Office needs in order to ensure that the regional offices are complying with those laws, regulations, and policies. For example, at approximately 90 percent of the regional offices where SIU investigators reviewed completed claims decisions during their site visits, significant errors were found in a large number of those decisions even after they had been quality reviewed by regional office personnel.

Slightly more than half of the regional office personnel conducting the quality reviews stated they had not had training specifically given by VA for Gulf War claims processing. From SIU investigators' observations that quality reviewers are missing errors in the claims they review, the SIU believes it likely that the monthly quality review reports being forwarded to Central Office do not accurately portray the type or quantity of errors that are being made in these claims. In addition to the questionable validity of the information they contain, the quality review reports themselves vary greatly in their level of detail and usefulness. For example, SIU investigators were shown quality review reports at some regional offices that provide a narrative describing specific errors found in each case. Other offices' quality review reports merely indicate whether an error was found in a claim without expounding on the exact nature of the error. Thus, it appears that VBA management's reliance on the monthly quality review reports to ensure that the regional offices are complying with laws, regulations, and policies regarding Gulf War claims is unwise. Likewise ill-advised is VA's reliance on those reports when allocating resources to ensure that Gulf War veterans are provided with priority service.

## **GULF WAR VETERANS ARE DISSATISFIED WITH VHA'S SERVICE DELIVERY**

During the course of this investigation, the SIU saw indications that many veterans may not be satisfied with the quality of health care they receive from VHA. In May 1995, the GAO, after reviewing the health concerns of Gulf War veterans from the 123d Army Reserve Command, reported that many of these veterans were dissatisfied with VHA's delivery of health care to them. Certain members of this Army Reserve Command first reported health concerns in February 1992, a year after the ground war in the Gulf.<sup>171</sup> The GAO testified in June of 1997 before the House Subcommittee on Health of the Committee on Veterans Affairs that, based on new input from a limited set of Gulf War veterans, those veterans appreciated the efforts of individual VHA staff but are frustrated with the "system."<sup>172</sup> The GAO noted that veterans continued to cite such problems with VHA as delays in getting service, unsympathetic attitudes of some health care providers, the cursory nature of registry examinations, poor feedback and communication with health care personnel, and a lack of post-examination treatment. This testimony also noted that veterans stated that they expected VHA personnel would (1) schedule the registry examination and tests in a timely manner, (2) listen to them describe their symptoms, take their concerns seriously, and perform all needed tests and evaluations, and (3) discuss test results with them as well as the need for further tests and treatment. However, the veterans complained that they experienced delays in getting the registry examinations and follow-up testing, received little personal counseling and, based on form letters received, felt that some of the VHA physicians they encountered believed nothing is wrong with them.

SIU investigators interviewed a number of Gulf War veterans during the course of this investigation about the health care they received from VHA.<sup>173</sup> In those interviews, veterans verified GAO's findings in their repeatedly-expressed dissatisfaction with VHA health care. These Gulf War veterans reported that VHA health care providers ignored them when they discussed the possible effect of various exposures they had experienced during their service in the Gulf War. Some Gulf War veterans report that health care providers at times have told them that their health problems are "all in their heads." Although some Gulf War veterans praised the VHA medical staff they have had contact with, more often these veterans reported that they often do not get timely or adequate feedback on their examinations and medical personnel often are unresponsive to their requests for information. Though the veterans' opinions expressed to GAO and to the SIU investigators reflect only those veterans' own experience, they strongly suggest that many Gulf War veterans being served by VHA are not satisfied with the care they receive.

## **VA DOES NOT MAINTAIN ADEQUATE INFORMATION SYSTEMS TO ACCURATELY TRACK IMPORTANT DATA REGARDING GULF WAR VETERANS**

As previously mentioned in this chapter, the SIU found that information contained in VA data systems is inaccurate, inconsistent, and unreliable. VA utilizes various information sources to collect data concerning benefits and services for Gulf War veterans. Some of these sources contain

data specific to disability claims while others contain data relating to the Gulf War Health Registry. Other databases contain military service information, clinical care information and other miscellaneous data.

One example of VBA's generation of inaccurate data is the Gulf War Readjudication Weekly Report. This weekly report, compiled and distributed by VBA Central Office, contains information concerning Gulf War claims readjudicated due to the extended presumptive period for undiagnosed illnesses. The report indicates the number of readjudicated claims completed and still pending a decision for each regional office as well as the nationwide total. The number of readjudication claims pending decision is given twice, representing the number of claims pending a decision as reported by the regional office and the number of claims pending a decision in VBA's work-in-progress system. The numbers should theoretically match but do not. (An example of these Weekly Reports can be found at Appendix V.)

Another example of an inaccurate database at VA involves the Persian Gulf Registry program. Legislation mandated that VA establish a national data base to collect relevant personal and medical health care information on Gulf War veterans who participate in the Persian Gulf Registry program.<sup>174</sup> However, not only has VA failed to comply with the statutory requirement to develop a comprehensive national data base for Gulf War veterans, but record keeping at the medical facilities is in a state of disarray. In 1994, the VA Office of Inspector General (OIG) discovered that VHA was not accurately capturing in the Persian Gulf Registry the information that was mandated by law to be included.<sup>175</sup> VHA responded to that OIG report by stating that it believed itself in compliance with the statute.<sup>176</sup> However, VHA committed to working closely with VBA leaders to develop a reporting procedure to ensure that Gulf War veterans who have submitted applications for benefits are enrolled on the registry and that they would establish a task force to oversee the process and ensure compliance with the law.<sup>177</sup> Although the OIG responded that they considered the issue to be resolved, it expressed serious doubts as to the ability of a task force to provide consistent guidance and oversight to a program as complex and far reaching as the Gulf-War program.<sup>178</sup> As of the writing of this report, neither a reporting procedure to ensure that Gulf War veterans who have submitted applications for benefits are enrolled on the registry nor establishment of a task force to oversee the process and ensure compliance with the law had occurred.

Additional problems with VHA's data bases were noted by SIU investigators during an inspection tour of VA's Austin (Texas) Automation Center (AAC). SIU investigators were informed that the Persian Gulf Registry data was actually held at the AAC in three separate computer files. AAC personnel informed SIU investigators that they were unsure what relationship, if any, the three files had with one another. No effort has been made to combine the three files although AAC staff indicated that consolidation of the three files would help bring them VA into compliance with the mandates required by law to maintain a national data base.<sup>179</sup>

Given these defects, VA needs to make it a top priority to remedy the defects in its information collection and management processes for Gulf War veteran data. In addition to complying with legislative requirements, it should commit to a goal of maintaining a level of data integrity consistent with that of data systems operating under generally accepted accounting principles. Data systems that support decisions involving adjudication performance, workload issues, and quality of decision making should be subjected to annual rigorous audit and certification procedures just as financial databases are regularly reviewed.

## **VBA DOES NOT ADEQUATELY UTILIZE ITS QUALITY ASSESSMENT TOOLS TO OVERCOME KNOWN DEFICIENCIES**

Because of concerns about potential troop exposures to environmental hazards during the Gulf War and the growing numbers of Gulf War veterans who have undiagnosed illnesses, the VBA made efforts to develop specific expertise to decide compensation eligibility for these veterans. However, the area processing offices operated without adequate oversight of the accuracy of the decisions they made affecting Gulf War veterans until late 1995. VBA Central Office completed the first in a series of quality reviews of Gulf War veterans' compensation claims in November 1995 involving approximately 200 claims from the four area processing offices. Several more reviews followed within the next two years. (At the time this report was written, another review of 100 claims was in progress and the results were unknown.) The results of the first review were reported to the area processing offices for the purposes of correcting the claims that had errors and to use the information in future training.

After Gulf War veterans' claims were redistributed from the area processing offices to the regional offices, regional office personnel began conducting quality reviews of Gulf War veterans' claims that were processed by the regional office. SIU investigators chose the same claims to review on their visits to the regional offices that were previously subjected to the VA's quality review process. The intent in adopting this approach was to examine claims which were selected by the regional office personnel themselves so as to avoid any appearance of bias as to which claims were chosen. Moreover, since the claims had already been subject to a quality evaluation by the regional offices, they should have represented the best decisions at those regional offices. Of the 200 claims that SIU investigators reviewed, 75, or 38 percent, had errors. However, quality reviewers nationwide in 1997 found an average of almost 22 percent errors. Of the stations reporting the results of their quality reviews, 31 percent found no errors in the Gulf War veterans' claims they processed.<sup>180</sup>

The most common errors found by the SIU's investigators were failure to obtain statements from lay persons and medical professionals identified by the veteran, failure to address inferred issues, and failure to note that no VA examination was conducted. All of the issues are required by law to be addressed.<sup>181</sup> Of the 22 regional offices where SIU investigators conducted an assessment of quality reviewed claims, no errors were found at only two stations, less than ten percent of the offices visited.

Even in two regional offices that were formerly Gulf War claims area processing offices, SIU investigators discovered that of ten quality-reviewed claims, one office had three errors out of ten claims and the other office had six errors out of ten claims. Further, in conducting a random review of eleven claims involved in the Central Office quality review last September, investigators found two errors. In comparison, on average 31 percent of the regional offices are self-reporting to VA's Central Office each month that their internal quality reviews reveal no errors. Five regional offices reported no errors for the entire four months of reports that the investigators examined.

The error levels identified by SIU investigators have been communicated to VBA management, yet the SIU can find no evidence that steps have yet been taken to remedy this situation. The SIU is gravely concerned that error rates continue to occur regularly yet are not detected or corrected at the working level and on review are not addressed. VA's inability to respond to claims processing problems when they are discovered has been the subject of concern to other entities reviewing the agency as well. For example, last year the National Academy of Public Administration released a report on VA's adjudication processes which contained findings similar to those found in this investigation such as the lack of a cooperative working relationship between Veterans Benefits Administration and Board of Veterans Appeals, lack of accountability within VA's leadership, and a high error rate that is not addressed in VA.<sup>182</sup> This failure to detect or correct errors does not inspire confidence in VA's ability to monitor itself in its implementation of Gulf War veteran programs or to make changes in that program when problems are evident.

## **VHA EFFORTS AT QUALITY ASSURANCE ARE NOT ALWAYS SUCCESSFUL**

VHA has undertaken several efforts to assess the quality of the services provided to Gulf War veterans, but they are not always effective. In response to a VA Office of Inspector General's recommendation,<sup>183</sup> VHA developed the Persian Gulf Registry Examination Program—Quality Management/Self Assessment Monitor for use as a quality management tool for conducting reviews of Gulf War veterans' medical records. Its purpose is to assess and monitor the appropriateness of medical care being provided in accordance with the medical protocol developed by VA medical personnel to ensure consistency in medically diagnosing illnesses of Gulf War veterans.<sup>184</sup> Using this quality monitor, VHA conducted a pilot study at one of its medical facilities and found this quality assessment tool helpful in identifying areas of compliance and noncompliance with Gulf War program requirements. For example, for this study VA medical records were reviewed to determine if the medical personnel conducted the examinations required under the Persian Gulf program and if the records were accurately documented. The study showed that the medical facility was in 90 percent compliance with the requirement to record in the Gulf War veterans' VA health records the results of laboratory blood work-ups but was in 100 percent noncompliance for completion of a breast/gynecology examinations for female Gulf War veterans. (See Appendix X of this report for results of the review of this pilot study.) Subsequent to this pilot study, VHA exported this quality

assessment tool to all medical facilities for the purpose of establishing a unified, nationwide quality assessment program. The analysis of VHA's quality assessment program has not been made available to the SIU for review to determine if the national program is meeting the compliance standards developed by VHA to meet the needs of Gulf War veterans.

Another quality assurance tool designed to help VHA assess the quality of health care services provided to Gulf War veterans is the Service Evaluation and Action Team (SEAT). The SEAT was established in each Veterans Integrated Service Networks (VISN) to enhance VHA's responsiveness to patient needs and service satisfaction. According to the VHA directive that established the program, the SEAT was also intended to provide a mechanism for each VISN office to continually assess opportunities to improve the effectiveness of the clinical programs and to respond to veterans' concerns. In addition, the SEAT was intended to enable VA managers at the medical centers and VA Central Office to identify trends in customer concerns and complaints.<sup>185</sup> This same directive noted that the SEAT is to obtain information on national and local customer satisfaction surveys, the patient representative tracking program, veterans, veteran service organizations, helpline inquiries, and quality improvement programs. Each VISN SEAT Chairperson is encouraged to process this aggregate information and submit a consolidated quarterly report to their VISN Director, with a copy to VHA Central Office.

The SIU's staff reviewed the most recent SEAT reports submitted to VHA Central Office. That review uncovered several problems ranging from VISN offices simply not filing the report to omission of any analysis of problems identified as required by the VHA directive. It is difficult to see how VHA can accomplish its stated goals, such as identifying and following trends, with the incomplete and inconsistent information it is currently receiving. To become an effective tool for measuring the quality of health care services delivered to Gulf War veterans, and eventually to other veterans, VHA Central Office needs better information to fully assess the concerns raised by Gulf War veterans. Furthermore, to meet the SEAT objectives, Central Office managers need information that is complete and consistently recorded and includes an analysis of problems and how to solve them. Without this information, VHA leaders cannot identify problems and make needed changes to the care delivered to Gulf War veterans.<sup>186</sup> Thus, although VHA and VBA Central Office have initiated several efforts to assess the quality of the services provided to Gulf War veterans, it does not appear that personnel in the field understand and utilize the tools available to accomplish this important goal.

## **CONCLUSION**

Many individual VA employees, particularly those who deliver VA services and benefits, are clearly dedicated and deeply committed to serving Gulf War veterans as effectively and efficiently as possible. However, this investigation has identified serious problems as to how VA as a whole is implementing programs to make this happen.



It is not clear that VA is addressing the priorities it articulates. This is evident from how information is handled and generated in VA. It is especially true for information that forms the basis for policy decisions affecting the delivery of health care services and compensation benefits to Gulf War veterans. More can be done to understand the needs of Gulf War veterans which, if viewed as a whole, could lead to a fuller understanding of the scope, nature, and causes of their health problems. Unless VA addresses its fragmented approaches to health care service and benefits delivery, and acts as the “One-VA” that it claims to be, Gulf War veterans may never succeed at getting their questions answered and receive the health care treatment and compensation benefits they deserve.

The lack of coordination between VA’s health care system and compensation claims process must be addressed forthwith, for Gulf War veterans with undiagnosed illness now are caught in a web created from VA’s organizational shortcomings. Although there is but one definition of “undiagnosed illness” in VA’s regulations, when it is applied in the context of Persian Gulf Registry and compensation examinations all too often veterans receive different outcomes. The frequent consequence is denial to ill Gulf War veterans of deserved compensation benefits and eligibility for health care. VA decision makers need to ensure that the laws and policies established to provide Gulf War veterans with health care and compensation are consistently applied to avoid this result.

Finally, VA’s top leadership must be held accountable for the programs they are obliged by law to administer. They set priorities and develop the policies to achieve them. This investigation found repeatedly that policy makers and program managers at the highest level in VA do not know if personnel in the medical facilities and regional offices are implementing VA’s own regulations and policies. When VA does learn of problems with implementing policies and regulations through quality assessment efforts or through legislative oversight, effective long term corrective programs are not established. These shortcomings must be corrected if VA is to fulfill its commitment to Gulf War veterans. Gulf War veterans deserve no less from the department that exists solely for them and for other veterans who have served their country.

## **RECOMMENDATIONS**

1. A new Assistant Secretary at the Department of Veterans Affairs should be created with responsibility for overseeing programs for addressing battlefield illnesses and other health issues that arise in connection with past and future deployments. Among this official’s responsibilities would be oversight and coordination of research, treatment, and compensation efforts in this area.
2. The Secretary of Veterans Affairs should create in each of VA’s Veterans Integrated Service Networks a working group on Gulf War illnesses that should meet at least quarterly to provide input on implementation of VA health care and compensation programs for Gulf War veterans. Members should include Gulf War veterans, veterans advocates and representatives

from veterans service organizations, VA Persian Gulf physicians and coordinators, and senior Veterans Health Administration and Veterans Benefits Administration officials whose responsibilities include implementation of these programs.

3. The Secretary of Veterans Affairs should direct development of a consolidated examination protocol for Gulf War veterans that can be used both to determine eligibility for service-connected disability compensation and provide necessary data for participation in the VA's Persian Gulf War Registry program.
4. The Secretary of Veterans Affairs should utilize team and case management approaches to serving Gulf War veterans with undiagnosed illnesses so that claims processors and health care providers jointly participate in and provide input to service-connected benefits eligibility decisions.
5. The Secretary of Veterans Affairs should require all Veterans Health Administration medical facilities to provide information to Gulf War veterans on how to apply for compensation benefits when they communicate to those veterans the results of their Persian Gulf Registry examination. All Veterans Benefits Administration regional offices should be required to provide Gulf War veterans with information on how to participate in the VA's Persian Gulf Registry program when they communicate with those veterans on compensation claims they have filed.
6. The Secretary of Veterans Affairs should expand the current Persian Gulf Registry to fully comply with the requirements for a Gulf War veteran national data base that was mandated by Congress in the Veterans Health Care Act of 1992.
7. The Secretary of Veterans Affairs should develop and implement joint training programs for compensation claims decision makers, examining physicians, Board of Veterans' Appeals decision makers, and others who coordinate or administer Gulf War veterans programs to ensure a common awareness and understanding of programs and activities involving unexplained illnesses.
8. Quality assessment of Gulf War veterans' compensation claims at the Department of Veterans Affairs should be conducted and validated by expert teams drawn from the Compensation and Pension Service, the Board of Veterans Appeals, and the Office of General Counsel. The Secretary of Veterans Affairs should implement and monitor corrective action.
9. The VA Office of the Inspector General should undertake a comprehensive assessment of VA medical facilities' compliance with Veterans Health Administration Central Office health care policies and programs on Gulf War veterans and monitor corrective action taken.

10. The Secretary of Veterans Affairs should contract with an independent scientific body, such as the National Academy of Sciences, to provide an ongoing review of the scientific literature to assess the nature of associations between illnesses and exposure to toxic agents and environmental or other wartime exposures as a result of service in the Persian Gulf War for purposes of determining a service connection relating to such illnesses.